REMARKS

The Office action of March 26, 2003 and the references cited therein have carefully been studied. Reconsideration and allowance of this application are earnestly solicited.

Initially, the undersigned would like to thank Examiner Kalinowski for graciously conducting an interview on May 28, 2003. During the course of this interview, we discussed the details of the present invention, the Office Action of March 26, 2003, as well as the references cited by the Examiner.

The present invention is directed to a system and method for automatically reviewing medical treatment claims provided by a plurality of practitioners to a plurality of insurance entities. The purpose of this system and method is to examine the medical treatment claims to determine whether these submitted claims appear to be fraudulent. Software is provided at a clearing house for examining the medical insurance claims submitted by medical practitioners, such as doctors, physical therapists and occupational therapists. The software provided at the clearing house would automatically scan these medical claims to determine whether the medical practitioner is billing for services that were never performed. For example, the system and method according to the present invention would examine each of the claims for the purpose of determining whether the practitioner billed for disparate or unrelated treatments during a single treatment period (such as 15 minutes, 1/2 hour, 1 hour, or the like) for the same patient. For example, while it may be appropriate to bill an insurance carrier for performing various procedures consistent with a particular patient's condition, the system and method of the present invention would utilize software for determining when these conditions are inconsistent with one another. If, for example, a patient was diagnosed with gall stones which must be removed immediately, a single treatment period might include the diagnosis, preparation for the operation, as well as the operation itself. While the software utilized by the present invention would indicate that these various treatments or procedures were consistent with one

another, if the medical practitioner would also bill during this single treatment period, the removal of gall stones along with a rhinoplasty procedure, the software would indicate that this would be the billing of inconsistent procedures and would automatically reject the claim or claims.

Additionally, the present invention would have the capability of determining the appropriateness of each of the claims submitted by the medical practitioner based upon the total number of claim hours submitted by that particular practitioner. For example, it, of course, would be impossible to bill for more than 24 hours during a particular day and, if the medical practitioner exceeded this period of time, the present invention would determine that such a claim of claims were fraudulent. Furthermore, the present invention could be used to determine whether a single practitioner submitted claims for more than one patient during a single block of treatment time.

The Examiner has rejected claims 1, 2, 6, 7, 9, 10, 13-15, 19 and 21-23 under 35 USC § 103(a) as being unpatentable over the patent to Peterson et al in view of the patent to Little et al. This rejection is respectfully traversed.

As indicated by the Examiner, the patent to Peterson et al is directed to a system for reviewing medical claims provided by a plurality of practitioners to a plurality of insurance entities for the purpose of adjudicating these claims. The patent to Peterson et al includes a clearing house for receiving information from the plurality of practitioners and includes a predefined set of adjudication rules contained in an adjudication database. Since the patent to Peterson et al does not disclose a system for determining the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single period of time, the Examiner has utilized the Little et al invention for this purpose.

All of the claims in the present invention depend from either claim 1, relating to a system for reviewing medical treatment claims and claim 13 directed to a method of determining the appropriateness of treatment claims. These claims were

intended to recite a system or method which would determine whether various disparate or inconsistent claims were made for a single block of treatment time on a single day. It is respectfully submitted to the Examiner that the Little et al patent is not directed to the invention as now claimed in independent claims 1 and 13. As indicated in column 7, lines 10-26 of the Little et al patent, the system included therein was directed to the situation in which several surgical procedures were deemed to be consistent with a particular condition. As stated therein, "A review code for multiple (emphasis added) surgical procedures, for example, could be assigned to each surgical procedure on a payment request having more than one surgical procedure listed for the same day for the same patient. Therefore, it is submitted that the Little et al patent is not directed to the situation in which a single block of treatment time would be examined to determine whether disparate medical treatment claims were made for this single block of treatment time. Consequently, claims 1 and 13 were amended to specifically indicate that only a single block of treatment time would be considered. Therefore, it is submitted that all claims depend either directly or indirectly from claims 1 and 13 also recite patentable subject matter.

Since it is believed that claims 1 and 13 are not anticipated by the combination of the Peterson et al and Little et al patents, reconsideration and withdrawal of this rejection are respectfully urged.

The Examiner has rejected claims 4-5 under 35 USC § 103(a) as being unpatentable over Peterson et al and Little et al as applied to claim 1 and further in view of the Pendleton, Jr. patent. This rejection is respectfully traverse.

Claims 4 and 5 are directly or indirectly dependent from claim 1 and each recites a system in which the appropriateness of each of the claims based upon the total number of claim hours, such as one work day are examined. The Examiner's rejection indicates that the patent to Pendleton, Jr., which is directed to a method and apparatus for detecting fraud, would include reading provided records from daily claims 158 (see

Figure 12) as well as reviewing the claims for numerous and expensive services. During the course of the aforementioned interview, the Examiner indicated that since the Pendleton, Jr. patent may identify a provider as potentially fraudulent based upon the submission of numerous and expensive services, it can be construed that the system of Pendleton, Jr. would also examine claims based upon the total number of claim hours submitted by the practitioner.

It is respectfully submitted that a reading of the Pendleton, Jr. patent does not suggest or anticipate a system for examining a submitted claim for the purposes of determining whether the claim is fraudulent due to the total number of claim hours submitted by the practitioner. Rather, it is believed that the phrase "numerous and expensive services" would mean that the Pendleton, Jr. patent would compare the claims of each of the practitioners to what would be considered to be the average number of various services, including those services which would be considered to be expensive. For example, if the average ophthalmologist would perform a particularly expensive procedure twice a month and a practitioner would submit a claim for that procedure on average of twice a day, that particular practitioner's claims might be red-flagged to manually determine whether they are appropriate. This certainly would not mean that the Pendleton, Jr. patent would look to the total hours submitted by the practitioner during a particular duration of time to determine whether that particular claim was fraudulent.

The Examiner has rejected claims 17 and 18 by the combination of the aforementioned Peterson et al, Little et al and Pendleton, Jr. references. This rejection is respectfully traversed.

Claims 17 and 18 are directly, or indirectly, dependent from claim 13 and recite in the context of a method claim, the same subject matter recited in claims 4 and 5. Therefore, for the reasons enunciated hereinabove, it is believed that claims 17 and 18 do recite patentable subject matter. Consequently, reconsideration and withdrawal of this rejection are respectfully urged.

The Examiner has rejected claims 8, 11, 12 and 20 under the combination of the Peterson et al and Little et al patents along with the addition of various patents to Halloway et al, Moore et al or Provost et al. These rejections are respectfully traversed.

All of the above-note claims are either dependent from the system recited in claim 1 or the method recited in claim 13 and for the reasons enunciated hereinabove, since it is believed that claims 1 and 13 do recite patentable subject matter, the claims which are dependent therefrom would also recite patentable subject matter. Consequently, reconsideration and withdrawal of these rejections are respectfully urged.

The Examiner has rejected claims 22 and 23 over the Peterson et al and Little et al references, along with the Examiner taking official notice that it is well-known in the claims fraud detection arts to flag multiple claims submitted for one patient at a single period of time. This rejection is respectfully traversed.

It is respectfully submitted that while it is admitted that the purpose of all of the patents and other references submitted by the Examiner would be to reduce medical fraud and save the consuming public as well as the government, a large amount of money, it is not believed that it would be an obvious extension of the Peterson et al patent, as well as the Little et al patent to reduce fraud by examining the appropriateness of claims for the purpose of determining whether a single practitioner has submitted more than one claim for different patients at a single treatment block of time. It is believed that the Examiner has taken the teachings of the present invention and utilized the Pendleton, Jr., as well as Little et al patents, to indicate that such a step in the fraud detection arts would be obvious. It is the undersigned contention that such a step would not be obvious. Additionally, it is believed that since claims 22 and 23 depend from claims 1 and 13 respectfully, even if such a statement was obvious, it is believed that claims 1 and 13, as well as any claims dependent therefrom, do recite patentable subject matter. Consequently,

reconsideration and withdrawal of this rejection are respectfully urged. It is believed that all the claims now present in this application recite patentable subject matter. Therefore, reconsideration and allowance of this application are earnestly solicited.

Respectfully submitted,

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